

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. Budget Trailer Bill, Senate Bill (SB) 1104 (Chapter 229, Statutes of 2004) adopted the Quality Assurance Initiative in the provision of supportive services (In-Home Supportive Services [IHSS]). Provisions from the legislation require the California Department of Social Services (CDSS) to adopt emergency regulations to implement amended Welfare and Institutions Code Section 12301.1 which authorizes varying intervals for assessing recipients' continuing needs for supportive services, and Section 12301.21 which requires the use of a standard statewide form to obtain medical certification for a person's protective supervision needs. The legislation requires emergency regulations for these provisions to be adopted no later than September 30, 2005, unless notification of a delay is made to the Chair of the Joint Legislative Budget Committee prior to that date, and it prohibits any delay to adopt emergency regulations beyond June 30, 2006. The legislation further requires that the initial adoption of the emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency necessary for the immediate preservation of public peace, health, safety, or general welfare, and that the emergency regulations shall be exempt from review by the Office of Administrative Law.
2. SB 1104 authorizes implementing these provisions through all-county letters or similar instructions from the director until emergency regulations are filed prior to June 30, 2006.
3. Delaying the implementation of these regulations will result in noncompliance with State law and could compromise the preservation of public peace, health, safety, or general welfare.

INFORMATIVE DIGEST

Existing regulations provide for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing regulations permit services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Budget Trailer Bill, SB 1104 (Chapter 229, Statutes of 2004) amended Welfare and Institutions Code Section 12301.1 to add 12301.1(c) which authorizes variable intervals for reassessments by county welfare departments. This legislation also adopted Welfare and Institutions Code Section 12301.21 which requires the use of a standard statewide form to obtain medical certification for a person's need for protective supervision. Also, Welfare and Institutions Code

Section 12300(b) authorizes protective supervision in IHSS. These proposed regulations implement and make specific the terms of these statutes.

As authorized by Welfare and Institutions Code Section 12301(c), the proposed regulations provide the option for county welfare departments to extend the reassessment period for up to 6 months beyond the 12-month period if certain conditions are met that ensure the recipients' needs are not likely to change during the extended period and who would not be put at risk by extending the reassessment period. The statute also requires county welfare departments to reassess needs, as necessary, when they are notified that the recipient's needs have changed. This is a change from current regulations that require county welfare departments to conduct reassessments for supportive services' needs as necessary, but at least once every 12 months.

As mandated by Welfare and Institutions Code Section 12301.21, the proposed regulations also require the development and use of a statewide standardized form to obtain medical certification for protective supervision needs and identify when and how the certification submitted shall be considered in the determination of a person's need for protective supervision. Current regulations do not require the use of a statewide standardized form.

COST ESTIMATE

1. Costs or Savings to State Agencies: Additional expenditures of approximately \$10.2 million in the current State Fiscal Year. It is anticipated that State agencies will be able to absorb these additional costs within their existing budgets and resources.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: Additional expenditures of approximately \$4.4 million in the current State Fiscal Year.
4. Federal Funding to State Agencies: Additional expenditures of approximately \$13.8 million in the current State Fiscal Year.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. If the Commission on State Mandates determines that these regulations contain reimbursable costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 12300(b). Subject regulations implement and make specific Welfare and Institutions Code Sections 12300(b), 12301.1 and 12301.21.